

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Y. Suda, et al.

Serial No.: 10/593,544

Art Unit: 1796

Filed: September 23, 2007

Examiner: M. Reddick

For: Protein Adsorption Prevention Eye Lens Material And
Method Of Manufacturing Same

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT
BASED ON FAILURE TO RECEIVE OFFICE ACTION UNDER
MPEP 711.03(c) and 37 C.F.R. 1.181**

Mail Stop Petitions
Commissioner For Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

Responsive to the official Notice of Abandonment mailed September 2, 2010, a copy of which is attached hereto, in the matter of the above-identified application, the undersigned kindly responds as follows:

Pursuant to MPEP 711.03(c) and *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the undersigned hereby petitions for withdrawal of the holding of abandonment herein, based on lack of receipt of the final Office Action mailed February 18, 2010. In particular, the undersigned received a Notice of Abandonment mailed September 2, 2010, stating that the instant application

was abandoned for failure to file a response to a final Office Action mailed herein on February 18, 2010. However, the undersigned never received said final Office Action at the correspondence address of record, and therefore was unaware of the issuance thereof.

As required by MPEP 711.03(c), i.e., to establish a showing of non-receipt of said final Office Action, the undersigned states as follows:

(1) The undersigned's firm, Townsend & Banta, utilizes a commercial electronic/web-based docketing system operated by "FoundationIP", a subsidiary of CPA Global, wherein all correspondence from the USPTO is sent to Townsend & Banta c/o FoundationIP, P.O. Box 52050, Minneapolis, MN 55402. Once received by FoundationIP, FoundationIP staff docket the Office Action (as well as any other communication received), and record the Office Action in the case file using an electronic docketing system software program. FoundationIP staff then notify the attorneys of record, which include the undersigned in this case, by E-mail, the notification E-mail including the attorney docket number of the case, the type of action received, and the title of the application. The Office Action is also loaded into the online case file, enabling the attorneys of record to download the Office Action, and docket same on the paper case file maintained by the undersigned, which is also checked monthly.

(2) The undersigned hereby states that the FoundationIP docketing system is sufficiently reliable, as the record provided thereby provides the application number, attorney docket number, the mail date of the Office Action and the due date for the response. Further, the FoundationIP system automatically sends E-mail reminders of response due dates. Moreover, FoundationIP staff

personally contact the attorneys of record in all cases prior to a final due date (i.e., drop dead date), so as to remind same of the due date and confirm the desired action in the case.

(3) The undersigned hereby attests that a search of the undersigned's records, including the file jacket and electronic equivalent thereof (as described above), and the application contents, indicates that the Office Action mailed February 18, 2010, was not received. As proof thereof, a copy of the face of the paper case file (where all actions are recorded), as well as a copy of the main page of the web-based electronic file for the instant application, is attached hereto. If said Office Action had been received at the correspondence address of record, it would have been entered first into the electronic web-based case file, and then on the face of the paper case file, none of which occurred.

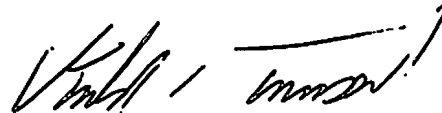
(4) Although the firm retains no "master docket" per se, a constantly evolving docket is created by the FoundationIP system, wherein "tasks", i.e., due dates for response are docketed each day as communications are received, and a task list updated in real time. This task list, a copy of last May 2010 (3 months from the due date of the Office Action in question) of which is attached hereto, is accessed and checked daily by the undersigned. As tasks are completed (e.g., responses are filed), they are electronically docketed as such in the FoundationIP system, which then deletes the task from the task list, and docketed the task as completed in the electronic web-based file. As further proof of same, a copy of the main page of the electronic web-based case file is attached hereto, which shows receipt of the non-final Office Action herein, filing a response therein, and then receipt of a Notice of Abandonment. It is clearly evident from this evidence that no final Office Action was received herein.

In view of the above statements, as well as the attached documentation, it is respectfully submitted that the Commissioner would be justified in rescinding the Notice of Abandonment herein, reissuing the final Office Action and resetting the mailing date thereof. Rescindment of the Notice of Abandonment, and reissuance of the final Office Action mailed February 18, 2010, is accordingly respectfully requested.

Further, although it is not believed that any filing fees are due for the filing of this Petition, the Commissioner is hereby authorized to charge Deposit Account No. 20-1424 for any deficiency or credit any overpayment to Deposit Account No. 20-1424.

Respectfully submitted

TOWNSEND & BANTA

A handwritten signature in black ink, appearing to read 'Donald E. Townsend', is written over a horizontal line.

Donald E. Townsend
Reg. No. 22,069

Date: November 1, 2010

Customer No. 27955

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DOCKET NO. NAK-020-USA-P